

# **METROPOLITAN AREA PLANNING COMMISSION**

## **MINUTES**

**September 6, 2007**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 6, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Elizabeth Bishop; Michael Gisick (Out @2:45 p.m.); Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; Debra Miller Stevens; Don Sherman; and G. Nelson Van Fleet. David Dennis, John W. McKay Jr., and M.S. Mitchell were absent. Staff members present were: Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; and Maryann Crockett, Recording Secretary.

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1. Approval of the August 16, 2007 MAPC minutes.

**MOTION:** To approve the minutes subject to staff recommendation.

**ANDERSON** moved, **JOHNSON** seconded the motion, and it carried (11-0).

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2. Election of Chairman and Vice Chairman.

**MOTION:** To defer until the next meeting.

**DOWNING** moved, **ANDERSON** seconded the motion, and it carried (11-0).

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**HILLMAN** asked if all the items listed under staff comments in the staff report had been turned in?

**STRAHL** commented that the drainage plan had been turned in; however, they don't typically have the petitions until the item has been scheduled for review by the City Council.

❖ **Items # 3-1 through 3-4 may be taken in one motion unless there are questions or comments.**

Consideration of Subdivision Committee recommendations from the meeting of August 23, 2007.

- 3-1. **SUB 2006-12: Final Plat - SEDGWICK COUNTY ARENA ADDITION**, located east of Broadway and north of Maple Street.

**NOTE:** This is a replat of a portion of the N.A. English's Addition. This replat includes the vacation of Commerce Street St. Francis Street, English Street, Santa Fe St. and an alley.

**STAFF COMMENTS:**

- A. Existing water and sewer services will need to be abandoned and/or relocated. A petition or financial guarantee is needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The plat proposes four openings along Waterman and one opening along English. Traffic Engineering has approved access controls.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. Traffic Engineering has approved the right-of-way along perimeter streets.
- G. The plat boundaries need to be revised to exclude the alley running east-west. The "alley" designation shall be removed since this will be a public street. The width shall be increased to 40 feet in accordance with the site plan. A petition for paving or financial guarantee is needed.
- H. The plat has created a dead end alley running north-south extending from William Street. A turnaround is needed for the terminus of the alley. In the alternative, the alley may be vacated upon consent of the adjoining landowners.
- I. City Fire Department requests an internal circulation plan.
- J. GIS has requested that the alley be relabeled as English (primary choice) or Oakland (secondary choice).
- K. County Surveying advises that the plat needs dimensions of the triangular island in the northeasterly corner of plat.
- L. The railroad right-of-way adjoining the east line of the plat needs to be designated.
- M. County Surveying advises that the easements crossing in the southeasterly corner of the plat should be redrawn to show the waterline easement butting up to the drainage and utility easement to ensure that all utilities have access to this intersection.
- N. In accordance with the Sedgwick County Arena Site Impact Study, Traffic Engineering has requested the following:
  - 1. Guarantee improvements to add left turn lanes at Washington and Waterman intersection,
  - 2. Guarantee improvements to convert Topeka Street from Kellogg to Waterman to a two-way street.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the

Fire Department.)

- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve items 3-1, 3-2, and 3-4 subject to staff recommendation.

**JOHNSON** moved, **SHERMAN** seconded the motion, and it carried (11-0).

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**3-2. SUB 2007-64: One-Step Final Plat - PARKSTONE ADDITION,** located east of Hillside between First Street and Douglas.

NOTE: This is a replat of portions of the R & R Addition, the Roembach Addition, and the College Hill Addition. The applicant proposes a zone change (PUD #26, PUD 2007-03) from GO, General Office, B, Multi-Family, and TF-3, Two-Family Residential to a Planned Residential Development (PUD).

**STAFF COMMENTS:**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.

- B. City Water Utilities Department advises that municipal services are available to serve the site. The applicant shall plat 20-foot easements for existing sewers. A proposed sewer layout is needed. A guarantee shall be submitted for the relocation/abandonment of the existing sewer and water lines. The applicant will provide a temporary easement for the existing sewers.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the drainage plan. Revisions will need to be provided.
- E. Traffic Engineering has requested additional street right-of-way to accommodate the roundabout as denoted on the site plan at the Victor/Rutan intersection. The roundabout will be eliminated.
- F. Access controls need to be platted along First Street and Douglas. Traffic Engineering has approved two openings along First Street. Complete access control is needed along Douglas.
- G. County Surveying advises that all subdivision boundary corners need to be monumented.
- H. County Surveying advises that the detailed inset for corner of Lot 4 needs to be revised.
- I. Blocks shall be designated on the face of the plat and referenced in the plat's text. Each lot shall be renumbered as Lot 1.
- J. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Parkstone Planned Unit Development (PUD #26, PUD 2007-03).
- K. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- L. GIS has requested that "First Street" be labeled as "E 1<sup>st</sup> St N". "Victor Place should be labeled as Victor Pl".
- M. The platting binder indicates a party holding a mortgage on the site. The applicant has informed staff that the mortgage has been released and appropriate documentation will be provided.
- N. The City of Wichita is denoted in the platting binder as an owner of this property and must be included as a signatory to the plat. The applicant has informed staff that the City of Wichita is the sole owner. The signatories on the plat will need to be revised accordingly.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Westar Energy has advised that any relocation of existing utilities shall be at the applicant's expense.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve items 3-1, 3-2, and 3-4 subject to staff recommendation.

**JOHNSON** moved, **SHERMAN** seconded the motion, and it carried (11-0).

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**3-3. SUB 2007-36: Revised One-Step Final Plat -- THE WATERFRONT RESIDENTIAL ADDITION,** located on the north side of 13<sup>th</sup> Street North and west of Greenwich Road.

NOTE: A zone change (ZON 2007-15) from LI, Limited Industrial to SF-5, Single-Family Residential has been approved. This site (with the exception of the west 280 feet) is located in the County adjoining Wichita's city limits and annexation is required.

This revised one-step final plat includes a revised street layout and one lot less the original plat.

**STAFF COMMENTS:**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being

platted.

- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the applicant's drainage plan. Off-site drainage agreements are needed.
- E. The private street (Reserve L) should be delineated from the public right-of-way by a solid bold line. Use of the turnaround located in Reserve L for public access shall be referenced in the plat's text.
- F. A covenant shall be submitted regarding the private street (Reserve L), which sets forth ownership and maintenance responsibilities.
- G. In accordance with the Subdivision Regulations the private streets shall be constructed to the public street standards. As private improvements, such guarantee shall not be provided through the use of a petition.
- H. County Surveying has advised that curve data is needed for Reserve E and for Lot 60, Block 1.
- I. As requested by City Fire Department in accordance with the code requirements of the International Fire Code, the applicant has provided second access for emergency vehicles extending to the east due to the number of proposed lots for this residential addition.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. Since reserves abut portions of public streets, the plat's text should include the language "owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair, or maintenance."
- N. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings
- O. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land

and is binding on future owners and assigns.

- P. The applicant has indicated that he is in the process of having a blanket pipeline easement confined. A recorded copy of the release/confinement of the easement shall be submitted.
- Q. For the pipeline easement on the property, the final plat shall include in the labeling of the easement the name of the company benefiting from the easement agreement.
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. GIS has requested that Summerfield Ct be relabeled as Summerfield Cir. The street north of Lots 39-41, Block 1 needs to be labeled as Crestwood.
- T. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-foot utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- U. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.

BB. Westar Energy requests additional easements.

CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**NEIL STRAHL**, Planning staff presented the staff report.

**BISHOP** commented that when this was approved by the MAPC there was discussion about the emergency stub to the east possibly becoming another ingress/egress access point.

**STRAHL** responded that the plat of the property adjoining this property on the east should be submitted very soon.

**BISHOP** asked if this was a gated community and commented that she thought City policy prohibited gates on public streets. She also mentioned that she had voted against this proposed zone change and plan because she had a problem with subdivisions containing that many properties having only one way in and one way out. She said this type of design creates tremendous traffic problems and suggested that the emergency stub might answer her concerns.

**STRAHL** said that the stub permits emergency access only to the property to the east. . He referred to the plat, and commented that the turnaround is actually in the private street portion of the plat and that, the plat text specifically allows for public turnaround in the area. He said it was a little different than the usual case.

**GENE RATH, MKEC, AGENT FOR THE APPLICANT**, commented that the plan included one location for emergency vehicle access only. He said the issue was discussed at the Subdivision Meeting and it was decided to develop up to 30 lots, and that after 30 lots were developed there would be a need for additional access to the east. He said the emergency access stub was acceptable to the Fire Department. He said this was a gated community with private streets; but the turnaround located in the in private reserve would be accessible to the public. He concluded by stating that this revision was just a reconfiguration of the lots in the subdivision.

Responding to a question from **BISHOP** concerning clarification on the turnaround, **RATH** briefly reviewed the revised plan including a crosswalk access at the public drive.

**BISHOP** clarified that there was no plan to develop the emergency access street stub.

**RATH** responded that was correct, that there were no plans to develop the stub; that there would be a one-gated access point for the entire community.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ANDERSON** seconded the motion, and it carried (10-1).

**BISHOP** – No.

**BISHOP** said she was voting against the request because she had a problem with subdivisions of this size having only one entrance and exit. She said the emergency access was a good idea; however, she did not think it addressed the traffic issue.

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**3-4. SUB 2007-73: One-Step Final Plat -- KRUG SOUTH SECOND ADDITION**, located west of 143<sup>rd</sup> Street East and on the south side of 21<sup>st</sup> Street North.

**NOTE:** This is a replat of a portion of the Krug South Addition. The cul-de-sac has been relocated to the north.

**STAFF COMMENTS:**

- A. Petitions have been provided with Krug South Addition for sewer, water, drainage and paving improvements. New petitions are needed.
- B. The applicant shall contact Debt Management regarding the need for submission of a respread agreement for existing improvements and for those under construction.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the applicant's drainage plan.
- E. Access controls needed to be platted.
- F. County Surveying has advised that the dimension on the east line of Reserve A needs added.
- G. County Surveying has advised that in the legal description the distance of "237.07" feet needs corrected to "272.82 feet".
- H. County Surveying has advised that in the legal description the bearing of N05°15'03" needs corrected to N05°15'03"E.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The City Council certification needs to be revised to reference Carl Brewer, Mayor.
- N. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades

or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.

- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve items 3-1, 3-2, and 3-4 subject to staff recommendation.

**JOHNSON** moved, **SHERMAN** seconded the motion, and it carried (11-0).

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❖ **PUBLIC HEARINGS – VACATION ITEMS**  
**ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.**

**4-1. VAC 2007-25: Request to vacate a portion of a platted setback.**

**APPLICANT/OWNER:** David & Gayle Melton

**LEGAL DESCRIPTION:** Generally described as the south 5-feet of the platted 25-foot front setback that runs parallel to Judith Street, on the Lot 1, Block 12, the Echo Hills Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located east of 119<sup>th</sup> Street West, north of 13<sup>th</sup> Street North, on the southwest corner of Judith and Parkridge Streets (WCC #V)

**REASON FOR REQUEST:** Additional room for an attached garage

**CURRENT ZONING:** Site and all abutting and adjacent properties are zoned "SF-5" Single-family Residential

The applicant proposes to vacate the south 5-feet of the described platted 25-foot front setback. The Unified Zoning Code's (UZC's) minimum front setback for "SF-5" zoning district is 25-feet. If the front setback was the UZC's 25-foot minimum for the "SF-5" zoning district and not platted the applicant could reduce the setback by 20%; making it a 20-foot front setback. The applicant's request is for a 20-foot front setback. There are no platted easements, franchised utilities, manholes, water or sewer lines located in the described portion of the platted setback. There are no platted easements in the interior side yard of the site, but there is the UZC's 6-foot minimum interior side yard that the applicant must observe. The Echo Hills Addition was recorded with the Register of Deeds February 26, 1980

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time August 16, 2007 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted setback, described in the petition should be approved with conditions:
- (1) Upon the recording of the Vacation Order, a 20-foot front setback will be in effect.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
  - (3) All improvements shall be according to City standards and at the applicant's expense.

- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Upon the recording of the Vacation Order, a 20-foot front setback will be in effect.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

**MARNELL** moved, **ANDERSON** seconded the motion, and it carried (11-0).

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**4-2. VAC 2007-26: Request to vacate a portion of a platted setback.**

**APPLICANT/OWNER:** Michael J Casamento

**LEGAL DESCRIPTION:** Generally described as the south 9-feet of the platted 35-foot front setback that runs parallel to Esthner Avenue, on Lots 2 & 3, the Meridian Industrial Park Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located west of Meridian Avenue, on the south side of Esthner Avenue (WCC #IV)

**REASON FOR REQUEST:** Expansion

**CURRENT ZONING:** Subject property and abutting and adjacent southern and western properties are zoned "LI" Limited Industrial. Properties to the east, across Meridian Avenue, are zoned "GC" General Commercial. Properties to the north, across Esthner Avenue, are zoned "LC" Limited Commercial and "SF-5" Single-Family Residential.

The applicant proposes to expand onto his existing building. The addition will encroach approximately 9-ft into the platted 35-ft front setback; 26-foot setback. The Unified Zoning Code's (UZC's) minimum front setback for the "LI" zoning district is 20-feet. The proposed encroachment will not exceed the current UZC's "LI" zoning standard. There are no platted easements, manholes, water or sewer lines in

the setback. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the setback. The Meridian Industrial Park Addition was recorded with the Register of Deeds May 13, 1975 Plat history: VAC2002-00007 vacated a portion of the platted 35-foot front setback on the western abutting Lot 4, Meridian Industrial Park Addition.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time August 16, 2007 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted setback, described in the petition should be approved with conditions:

1. Provide Planning with a legal description of the approved vacated portion of the setback on a Word document via e-mail. The legal description will only describe that portion of the setback that will be encroached into by the proposed expansion.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
3. All improvements shall be according to City standards and at the applicant's expense.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Provide Planning with a legal description of the approved vacated portion of the setback on a Word document via e-mail.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.

3. All improvements shall be according to City standards and at the applicant's expense.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

**MARNELL** moved, **ANDERSON** seconded the motion, and it carried (11-0).

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❖ **PUBLIC HEARINGS**

5. **Case No.: ZON2007-36** – Steel Sunflowers LLC (owner, applicant), Poe & Associates: c/o Tim Austin (agent) Request City zone change from "SF-5" Single-family Residential, "TF-3" Two-family Residential and "LC" Limited Commercial to "MF-29" Multi-family Residential on property described as;

The West 340 feet of American Legion Addition, Wichita, Sedgwick County, Kansas.  
Generally located south of 31st Street South and east of Wichita Street.

**BACKGROUND:** The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of South Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking "MF-29" zoning in order to develop an apartment/multi-family development. The current 32<sup>nd</sup> Street South Circle right-of-way, through the south one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences. In this particular area, there is a mix of uses and zones. Just within a four-square block area, there are properties zoned LC, GC, LI, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. The Unified Zoning Code (UZC) permits MF-29 zoning for up to 29 dwelling units (DU's) per acre, while TF-3 allows 14.5 DU's (with a conditional use) and LC allows 75.1 DU's per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units with a rezone. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The UZC has "compatibility development standards" dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a "conditional use" application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the

multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

**CASE HISTORY:** The existing SF-5 zoning was established when this property was annexed into the city between 1951-1960. The LC and TF-3 zoning was established in a zone change (Z-2376), from SF-5 (or “AA”) in 1982. Z-2377 was a rezone attempt on the southern half of the addition from “AA” (SF-5) to “A” (TF-3) in 1982, but the case was withdrawn. The application area is a part of the American Legion Addition, recorded in 1982.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“GC” Limited Commercial	Car Sales, Retail, Office
	“SF-5” Single-family Residential	Single-family Residences
SOUTH:	“SF-5” Single-family Residential	Single-family Residences
EAST:	“LC” Limited Commercial	Civic Club
	“GC” General Commercial	Salvage
	“SF-Single-family Residential	Salvage
WEST:	“LC” Limited Commercial	Group Quarters
	“B” Multi-family Residential	Group Quarters
	“SF-5” Single-family Residential	Single-family Residences

**PUBLIC SERVICES:** 31<sup>st</sup> Street South at this location is a four-lane minor arterial with 95 feet of right-of-way. 31<sup>st</sup> Street South carries 8,215 average daily trips. Wichita Street, which runs along the west side of the subject, is a local road with a 60-foot right-of-way. Apartments, a common use in a MF-29 zone, generate approximately 6.6 average daily vehicle trips per unit. With SF-5 and TF-3 zoning, a single-family residence can generate 9.6 and a condo can generate 5.9 average daily vehicle trips per unit. Under LC zoning, a fast-food restaurant can generate 496.1 and a supermarket can generate 111.5 average daily vehicle trips per 1,000 square feet of gross floor area (Source: Institute of Transportation Engineers.) Other publicly provided services are available or can be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** Goal II of “The Wichita-Sedgwick County Comprehensive Plan Preparing for Change” indicates that there should be a variety of housing opportunities. Strategy II.A2 calls for requirements for medium and high-density residential development, which would include plan and architectural review to ensure compatibility with surrounding low-density residential areas. Residential Location Guidelines, p. 34 of the 1999 update of the Comprehensive Plan state: medium and high-density uses should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and within close proximity of employment centers; medium and high-density residential uses should be sited where they will not overload existing or planned facilities. The “2030 Wichita Functional Land Use Guide” reflects the sites current “LC” zoning by showing the site as being appropriate for “local commercial” uses and the sites currently SF-5 and TF-3 by showing those sites as being appropriate for “urban residential” uses.

**RECOMMENDATION:** A property owner in the immediate area who is opposed to the zone change and proposed multi-family development contacted planning staff; the property owner feels that multi-family use may conflict with the existing residences in the area. Under MF-29 zoning, the site could be developed in theory with up to 29 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Another possible issue with this site and the proposed “MF-29” zoning is access. The site can have access onto a local street, S. Wichita Street, abutting the subject site on the west. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to vacation of street right-of-way and replat within one year and the following provisions of Protective Overlay #193:

1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Solid screening, 6 to 8 feet tall, shall be required along all property lines when adjacent to or across the street from SF-5 zoning.

3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping, per code, shall be required.
5. 35-foot setbacks will be established along the south and north property line where adjacent to SF-5 zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property zoned LC and SF-5 abuts the subject site on the east. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences. The application area is a transitional area as demonstrated by the diverse set of zones and land uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned LC, TF-3 and SF-5. This current zoning would allow for a wide range of uses. With the current zoning, there is the possibility for a mix of uses, some of which would be too intense for this particular area. Additionally, the number of dwelling units that can be allowed within this mix of zoning, according to the UZC, would be greater than the number of units that would be potentially allowed under the MF-29 zoning. Also, the proposed MF-29 zoning would not allow more intense commercial uses that are allowed within the LC zone.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would downzone 35% of the property currently zoned LC. This down zoning would eliminate the possibility of intense commercial uses from operating in this area. The rezone would also create a buffer between commercial uses currently along South Broadway Avenue and single-family residential uses along Wichita Street, extending to the west. A traffic increase could occur if the primary access for any proposed residential development was established along S. Wichita Street. This is a point that should be addressed in the replatting process.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional multi-family housing to the market. Denial would, in effect, only delay the development of the property as the site's LC zoning permits multi-family uses, with a higher density than what is allowed in a MF-29 zone.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with a majority of the comprehensive plan goals and objectives of providing a range of housing opportunities, and that multi-family uses should be located in areas where adequate services are available or can be extended.
6. Impact of the proposed development on community facilities: Any development on the site will increase traffic over its undeveloped state, however multi-family projects on a use by use basis are low generators when compared to commercial uses. South 31<sup>st</sup> Street is a four-lane facility that has capacity to accommodate the uses allow by the proposed zoning. Other services are available or can be extended through the platting process.

**DERRICK SLOCUM**, Planning staff presented the staff report.

He referred Commission members to the DAB III Memorandum dated September 6, 2007, and stated that DAB III approved the request 6-5. He added that staff has received thirty protest petitions on the application.



**SHERMAN** clarified that it was **SLOCUM'S** understanding that this area would not be developed for low-income housing.

**SLOCUM** said that was correct.

**TIM AUSTIN, POE & ASSOCIATES, AGENT FOR THE APPLICANT** said they were in concurrence with the staff report and staff recommendations. He referred to Item #2 of the staff report concerning the solid screening and suggested that it would be more appropriate for them to landscape at one and one-half times what is required by City ordinance. He mentioned wrought iron fencing with plantings.

**HILLMAN** commented that all the concerns expressed at the DAB meeting weren't regarding the potential for low-income housing. He said he appreciated **AUSTIN'S** comments about landscaping and mentioned planting evergreen so the plants were attractive year-round and don't lose leaves in the winter. He said the Commission would be willing to work with them on that item.

Responding to a question from **MARNELL** concerning vacating the center right-of-way and the status of the four lots to the north of the site, **AUSTIN** explained that the four lots were currently owned by the American Legion who would be retaining ownership. He added that they would vacate then replat the center area.

**HENTZEN** asked how long the salvage yard could stay at its present location?

Staff commented that the area was zoned "GC" General Commercial and that the salvage yard was, therefore, a non-conforming use.

**LANG** commented that he was not aware of any time limit as long as the salvage yard operation stays unchanged.

**JOHNSON** asked how many units would be developed?

**AUSTIN** commented that on the 3.4-acre site they were allowed to develop ninety-nine units, but that it would probably be something less than that.

**BRIAN SLATER, 3301 S. WICHITA** said he lived straight across from this property. He said the entire neighborhood is against the rezoning and that the neighbors do not want an apartment complex in their front yard. He said the area has many older people and that they have a low crime rate. He said they believe putting a multi-dwelling complex in the area would increase crime. He also mentioned that the entrance/exit to the complex would be off of Wichita Street which is a residential street, and that this would add approximately 600 plus vehicles a day in traffic. He said they have traffic problems in the area as it is. He said they have no problem developing single-family homes in the area. He said they could care less if they are screened from the salvage yard. He said they are taxpaying citizens who chose to live in the area because they like it there. He mentioned that he grew up in the neighborhood and requested that the Commission consider the opinion of the neighbors in the area and please not turn this area into an apartment complex.

**ALVIN GANN, 204 WEST PATTERSON** said the proposed site was in his backyard. He commented about the petitions that were turned into City Councilman Skelton. He also mentioned that he felt this development would create a crime wave and that drugs may also be an issue. He said low-income housing bothers him anywhere in the City and added that he felt things just "went to pot" especially if the government has anything to do with it. He mentioned South Hydraulic and that most of the houses in that area are now boarded up or empty and that he was afraid that this would happen in their neighborhood. He asked who was responsible for cutting the field? He also asked about Item #5 on the staff report

concerning the 35-foot set back and what that meant. He asked was that setback from the alley or his property? He concluded by saying that the neighborhood does not need low-income housing.

**MILLER** commented that the setbacks are measured from the property line (applicant's property line).

Responding to a question from **BISHOP, SLOCUM** explained the processing of the protest petitions presented to him at last night's DAB III meeting.

**JEANETTE BURNISON, 210 W. PATTERSON** said her property backs right up to the site. She said she is concerned about the influx of so many people into an area that is a nice, quiet neighborhood. She said they are having terrible traffic problems because of the closing of the bridge on Broadway. She said she has lived there since she was 6 years old. She said she did not want multi-dwelling housing even if it is really nice. She said the junkyard has never bothered the neighbors because it creates no traffic and it is screened. She said this is a small, quiet neighborhood; that the residents are against this; and asked the Commission to take that into account when they voted.

**JIMMYDALE GREY, 307 W. 32<sup>nd</sup> STREET SOUTH**, said he is concerned about increased traffic and depreciation of the value of his home. He said they are talking about 100 residents in a one-block area. He said single-family homes are what the norm is in the area. He said an apartment complex will cause increased traffic, crime, and that it just isn't wanted by the neighborhood.

**WALTER HAYS, 302 W. 32<sup>nd</sup> STREET** mentioned the increased traffic problems in the area, and how 32<sup>nd</sup> Street dead ends at Gold. He mentioned that there have also been several wrecks at Patterson and Wichita Streets. He concluded by saying that it was just not a good idea to put an apartment complex at the site. He said single-family housing or even duplexes would be okay.

**HILLMAN** asks for clarification in regards to 32<sup>nd</sup> Street not being completely paved?

**HAYS** commented that there was a section of 32<sup>nd</sup> Street between Waco and Palisade that was not paved.

**TIM AUSTIN** explained that the American Legion does not own the property that is being rezoned. He said this residential area was platted in 1952, the east was platted in 1937, and the north was platted in 1965, but that nothing has been happening within the last 25 years.

## **TAPE 1, SIDE 2**

He said Patterson Street does come out onto Broadway and that there is a one half street right-of-way. He said this property is in compliance with multi-use land area within the Comprehensive Plan, and added that they were attempting to balance land development with the rights of people in the neighborhood.

**JOHNSON** asked if his client specialized in low-income housing?

**AUSTIN** commented that no definite decision has been made, but using tax credit to develop housing is a business decision that his client would evaluate and make. He said he is not going to say the development is never going to be low-income housing; however, he pointed out that if that were to happen, there is a separate public hearing process where the neighbors could participate.

**HILLMAN** commented on the auto repair shop at 31<sup>st</sup> Street and Wichita and that there were a lot of vehicles parking along Wichita Street right now. He said he would like a commitment to work with owner of the proposed complex to provide sufficient off-street parking so as not to compound the current problem.

**AUSTIN** commented that he has spoken with Traffic Engineering concerning the situation along Wichita Street and whether "No Parking" signs would be appropriate and they indicated they would research the

situation. He said the applicant is planning on providing one and three-quarter parking stalls for every dwelling unit, whether it is two or three-bedroom. He said they plan on providing sufficient off-street parking so cars will not be on the street. He said that and access controls would be discussed at platting.

**BISHOP** said since Wichita Street is designated as a residential street, could the case be deferred until the access issue was resolved, since this was a major issue with her.

**AUSTIN** said he would prefer that the Commission vote on the request today. Responding to a question from **BISHOP** concerning sidewalks, curbs and guttering in the area, **AUSTIN** commented that the streets were paved to the urban standards set in 1952, and acknowledged that there were no sidewalks.

**BISHOP** commented that she has problems developing multi-family complexes on residential streets.

**MOTION:** To approve subject to staff recommendation.

**MARNELL** moved, **ANDERSON** seconded the motion.

**GISICK** asked if the motion included the change in Item #2 to one and one-half times what the Unified Zoning Code required for screening? **MARNELL** responded yes.

**SUBSTITUTE MOTION:** To defer action on the item.

**BISHOP** moved, **HILLMAN** seconded the motion and it failed (2-9).  
**ANDERSON, DOWNING, GISICK, HENTZEN, JOHNSON, MARNELL, MILLER STEVENS, SHERMAN and VAN FLEET** – No.

The original motion carried (10-1). **BISHOP** – No.

6. **Case No.: ZON2007-39** – Auburn Pointe, LLC, (Gary Oberney); MKEC Engineering Consultants, Inc., (Greg Allison) Request City zone change from "NR" Neighborhood Retail to "LC" Limited Commercial and to amend Protective Overlay #130 to permit "animal care, limited" on property described as;

Lot 1, Block 1 and Reserve A, Auburn Hills Commercial 4th Addition, Sedgwick County, Kansas. Generally located 1/4 mile east of 135th Street West on the south side of Maple Street.

**BACKGROUND:** The applicant requests a zone change from "NR" Neighborhood Retail, subject to Protective Overlay 130 (PO-130), to "LC" Limited Commercial, subject to an amended PO-130. The application area contains 4.6 acres of platted land and is located on the south side of Maple Street, approximately one-fourth mile east of the 135<sup>th</sup> Street West and Maple Street intersection. In addition to the development standards contained in the NR zoning district, the property is also subject to the development standards contained in PO-130, which are:

- (1) 35-foot setbacks along the site's south, north and east sides.
- (2) Monument sign with a maximum sign face of 48 square-feet and a height of 8-feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.
- (3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting eastern DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.

- (4) Shared internal access and shared access onto Maple Street with Parcel #4 of DP-219 AUBURN HILLS C.U.P.
- (5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to DP-219 AUBURN HILLS C.U.P. lighting elements, shall be no higher than 14-foot when within 100-feet of abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-feet high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- (6) All utilities are to be installed underground.
- (7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Landscaping shall be required prior to the issuance of any occupancy permit.
- (8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be constructed along the site's east and south sides.
- (9) Trash receptacles shall be appropriately screened to hide them from ground view.
- (10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
- (11) All buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.
- (12) 20-foot landscape and wall easement along the south and east sides of the tract
- (13) Prohibited uses include group residences, correctional placement residences, group homes, multifamily, asphalt and concrete plant, limited.

The site's current NR zoning does not permit "animal care, limited." The applicant is seeking LC zoning, subject to a modified protective overlay in order to add "animal care, limited" as a permitted use on the site. As proposed by the applicant, the only LC use that would be added to the NR uses already permitted would be "animal care, limited."

"Animal care, limited" is defined by the "Unified Zoning Code" as "a use providing veterinary services for large animals, and that may include small animals (household pets), and for which boarding facilities may also be provided." Supplemental use regulation III-D.6.c also stipulates that "animal care, limited" uses are subject to the following development standards: shall not generate noise or odors that are discernable beyond the property line; treatment is limited to dogs, cats and other small animals and all animals shall be harbored indoors.

The applicant proposes to modify PO-130 by adding a 14th clause that states: "'Animal care, limited' is the only allowable 'LC' Limited Commercial use permitted. All other uses shall conform to the 'NR' Neighborhood Retail zoning district, subject to the conditions listed above. This property will require an 'amendment' to this Protective Overlay should the present or future owner(s) and or their agent(s) request any additional 'LC' Limited Commercial zoning district use(s) not permitted in the 'NR' Neighborhood Retail zoning district. The amendment shall require a public process requiring notification of surrounding property owners and approval of the Wichita City Council."

The applicant has met with the property owners located to the east of the subject site and appears to have received mostly consent or at least little opposition to the proposal. Some of the comments at the neighborhood meeting dealt with a need for the protective overlay to stay in place, and that the only LC use to be added would be the small animal clinic. The applicant also met with District Advisory Board V on August 6, 2007. The DAB asked questions of the applicant and provided comments. The applicant indicated that the proposed clinic would be located on the south end of the center. He also indicated there would not be any "doggie day care," grooming, non-medical required boarding or outside pens or runs. The applicant indicated the only boarding would be that required due to medical considerations; there would be 12 enclosures with five indoor runs and seven cages. The office space would be constructed to

incorporate additional noise attenuation features, including sand filled cinder blocks. Typical business hours will be 7:30 a.m. to 6:00 p.m. Monday through Friday, with Saturday morning service. The applicant also indicated that dogs will be walked outside, and that he has a service that will collect waste.

The application area is located between an established single-family residential subdivision located to the east, and a commercial center, DP-219 Auburn Hills C.U.P., located to the west. Property to the north, across Maple, is zoned “SF-5” Single-family Residential and developed with single-family residences. Property to the northwest is zoned “LC” Limited Commercial and subject to development restrictions, Protective Overlay #17, that limits uses, building signage and access points. The property to the south is undeveloped and zoned “GO” General Office, and is covered by Protective Overlay #140 that addresses architectural compatibility and density.

**CASE HISTORY:** The subject site was included in the request for Community Unit Plan DP-219 and associated zoning case Z-3191, a request for a zoning change of “AA” single-family residential to “LC” Light Commercial for 17.32-acres located on the southeast corner of Maple Street and 135<sup>th</sup> Street West. DP-219 and Z-3191 were approved by the Wichita City Council on May 7, 1996, but without the subject site being part of the CUP or zoning change. Development of the Far West Side Commercial Development Policy in 1996 was triggered by the DP-219 and Z-3191 application. The policy placed limits on the size of commercial zoning at various west side arterial street intersections and also contained architectural, signage, access and landscaping controls. The Far West Side Commercial Development Policy has since been eliminated. In 2003, ZON2003-59 changed the property’s zoning from “SF-5” Single-family Residential to “NR” Neighborhood Retail, subject to PO-130. Platting cases SUB2004-29 and SUB2005-85 were approved and recorded in 2004 and 2005 respectively. An Administrative Adjustment has been granted that modified the building setback along the east property line, eliminated dumpster screening and permitted a metal façade on the building’s east facing façade. Landscaping along the east side was to be significantly increased – 14-foot tall pine trees on 12-foot centers.

**ADJACENT ZONING AND LAND USE:**

NORTH: “SF-5” Single-family Residential; single-family subdivision  
SOUTH: “GO” General Office; undeveloped  
EAST: “SF-5” Single-family Residential; single-family subdivision  
WEST: “LC” Limited Commercial; retail shopping

**PUBLIC SERVICES:** The site has frontage along Maple Street. Maple is improved with four lanes, a center turn lane and decel lanes at the intersection of Maple and 135<sup>th</sup> Street West. East of the intersection Maple is classified as a 4-lane arterial. Current average daily trips (ADT) are 3,096 ADTs east of the intersection; with projected traffic volumes for 2030 were estimated at 6,800 ADTs. However, it is predicted that if the northwest bypass were to be constructed, traffic volumes would more likely be in the 9,000 to 10,000 ADT range. No improvements are scheduled on the city or county capital improvements program for Maple. Water and sewer are available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Low Density Residential” development, however the map has not been amended since 2005. “LC” Limited Commercial zoning subject to the proposed amended PO-130 would continue to accommodate very low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to an amended PO-130 to include a 14<sup>th</sup> condition that states:

““Animal care, limited” is the only allowable “LC” Limited Commercial use permitted. All other uses shall conform to the “NR” Neighborhood Retail zoning district, subject to the conditions listed above.

This property will require an "amendment" to this Protective Overlay should the present or future owner(s) and or their agent(s) request any additional "LC" Limited Commercial zoning district use(s) not permitted in the "NR" Neighborhood Retail zoning district. The amendment shall require a public process requiring notification of surrounding property owners and approval of the Wichita City Council."

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property in the neighborhood is zoned either "GO" or "LC" on the four corners of the Maple Street – 135<sup>th</sup> Street West intersection; all have either a community unit plan overlay or protective overlay on the non-residential zoning. Beyond the intersection, the neighborhood is predominately zoned "SF-5", with the exception of some "GO" General Office zoned property located to the south. The character of the neighborhood is that of a developed and developing suburban residential neighborhood that has displaced the prior agricultural uses of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "NR" Neighborhood Retail subject to Protective Overlay 130. PO-130 excludes a few NR uses, otherwise the site's current zoning allows a significant range of residential, office and low intensity general retail uses. The site could be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed rezoning would add a single use, animal care, limited, subject to a protective overlay that requires public meetings to add additional LC uses. Based upon code required operational standards eliminating outside pens or runs, and applicant offered construction methods to minimize outside noise nearby property should minimize anticipated detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will allow an additional animal care, limited use in a location that does not allow it today. Denial would represent an economic loss to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development, however the map has not been amended since 2005. "LC" Limited Commercial zoning subject to the proposed amended PO-130 would continue to accommodate very low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods
6. Impact of the proposed development on community facilities: No additional impacts have been identified.

DALE MILLER, Planning staff presented the staff report.

**MOTION:** To approve items #6 and #8 subject to staff recommendation.

ANDERSON moved, SHERMAN seconded the motion, and it carried (11-0).

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7. **Case No.: ZON2007-40** – Leo Rasmussen (owner/applicant) Request City zone change from "SF-5" Single-family Residential to "LI" Limited Industrial on property described as;

The south 65 feet of the north 631.42 feet of the west 211.32 feet of the east 615 feet of the Southwest Quarter of the Southeast Quarter of Section 26, Township 27 South, Range 1 West of

the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located 1/8 mile north of Harry on the west side of Sabin Street.

**BACKGROUND:** The applicant requests a zone change from “SF-5” Single-Family Residential to “LI” Limited Industrial on a 0.3-acre unplatted tract located one-eighth mile north of Harry on the west side of Sabin. The subject property is vacant. The applicant proposes to develop the subject property with an office/warehouse building for a construction business.

The surrounding area is characterized primarily by industrial uses, although about ten single-family residences remain along Sabin on property zoned SF-5, including the abutting property to the north and the next lot to the north. The abutting property to the south is vacant, but the next two properties to the south are single-family residences. The properties farther south and east are zoned LI and are developed with two contractors businesses and a machine shop. The properties to the northeast include more single-family residences zoned SF-5 and contractors businesses zoned LI. The properties to the northwest are zoned SF-5 and owned by the city and are instrumental for storm water drainage and retention, acquired in 1984.

Since the surrounding property is in residential zoning, the Unified Zoning Code (“UZC”) screening, lighting, and noise standards and the Landscape Ordinance landscaped street yard, parking lot landscaping and buffering requirements will apply. The UZC compatibility setback standards also apply unless a Zoning Adjustment is requested and granted by the Planning Director and Zoning Administrator to reduce or waive the compatibility setback.

**CASE HISTORY:** The property is unplatted. A plat was submitted (SUB2006-40) by the previous owner but was deferred June 8, 2006 by the Subdivision Committee and has not progressed from this status.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residences, vacant, industrial
SOUTH:	SF-5	Vacant, single-family residential, machine shop
EAST:	SF-5, LI	Single-family residential, contractors businesses
WEST:	SF-5	Storm water drainage and retention

**PUBLIC SERVICES:** The subject property has frontage along Sabin, an unpaved local street. Public water and sewer service are currently available to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by industrial uses, although about ten single-family residences remain along Sabin on property zoned “SF-5” Single-family Residential, including the abutting property to the north and the next lot to the north. The abutting property to the south is vacant, but the next two properties to the south are single-family residences. The properties farther south and east are zoned “LI” Limited Industrial and are developed with two contractors businesses and a machine shop. The properties to the northeast include more single-family residences zoned SF-5 and contractors businesses zoned LI. The properties to the northwest are zoned SF-5 and owned by the city and are instrumental for storm water drainage and retention, acquired in 1984.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned SF-5 and is vacant. Given the long-standing guidance provided by land use guides that this area should be developed with industrial uses, further residential development of the subject property would not be suitable and would be contrary to the community's goal of converting the area from residential to industrial use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on remaining residential properties in the area are reduced by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscape street yard, parking lot screening, buffer landscaping requirements of the Landscape Ordinance. These ordinances help limit noise, lighting, and other activity from adversely impacting the surrounding residential properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated as long as the plat includes the dedication of 35 feet of right-of-way and utility easements with petitions for improvements. Otherwise, future provision of a paved industrial street and extension and/or maintenance of water and sewer utilities in the area could be hindered.

**DONNA GOLTRY**, Planning staff presented the staff report.

It was noted for the record that the owner /applicant declined to speak; however, he indicated that he was in agreement with staff comments and recommendations.

**VERNON WILLIAMS, 1115 S. SABIN** stated that he owned a vacant lot on the south side of the street where he planned on building a residential house. He asked if they had to have city sewers for that type of building the applicant was proposing. He recommended keeping this as a residential area.

**MILLER** stated that services would need to be extended in order to get a building permit for commercial uses.

Responding to a question from **HENTZEN** concerning whether he had sewer, **WILLIAMS** said he has laterals and a septic tank; however, he thought they had sewer service on the other side of the street.

It was noted that once again, the owner/applicant had no comments or rebuttal.

**MOTION:** To approve subject to staff recommendation.

**ANDERSON** moved, **HILLMAN** seconded the motion, and it carried (11-0).

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8. **Case No.: ZON2007-41** – Catholic Diocese of Wichita, Larry & Vivian Cunningham, James & Ann Abel, and Loren Murray (owners); Foulston Siefkin LLC., Karl Hesse (agent) Request City zone change from "TF-3" Duplex Residential to "B" Multi-family Residential on property described as;



LOTS 50 AND 52 TOGETHER WITH THAT PART OF VACATED ORME STREET, BEING 30 FEET ADJACENT TO SAID LOTS; LOTS 54, 56, 58 AND 60, ON PARK, NOW RUTAN, IN INDIANA SUBDIVISION IN VINCENNES ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS. Generally located South of Kellogg Street, east of Hillside Avenue, on the east side of Rutan Avenue, and south of Orme Street.

**BACKGROUND:** The rezone request is for a platted 0.5-acre site located approximately 700 feet east of the intersection of South Hillside Avenue and East Orem Street. The properties are currently zoned “TF-3” Two-Family Residential, with single-family residences on two of the properties and the other property being vacant. The Catholic Diocese of Wichita has contracted with the owners of these properties to purchase them so as to expand the Calvary Cemetery located at Kellogg and Hillside. These properties are contiguous to the existing cemetery which is zoned B - Multi-family. Acquisition of these properties and a zone change will “square out” the existing cemetery.

Uses surrounding the subject site include TF-3 zoned property located immediately south and west of the application area developed with single-family residences. North and east of the subject site is the Calvary Cemetery, zoned “B” Multi-Family Residential. There are other single-family homes south and west of the subject site along Rutan Ave. on TF-3 zoned lots. Just to the north and west is Kellogg Avenue (US-54), with the entrance/exit ramp off Hillside Avenue. The current neighborhood character is predominately “TF-3” zoned single family-housing units. The proposed zone change, from “TF-3” to “B” would require conformance to all property development standards in the Unified Zoning Code.

The applicant proposes to use the proposed site for cemetery operations. Existing access and parking will not change due to this application. This application will allow the applicant to have a uniformly shaped lot conducive to the continuing operation of the cemetery.

**CASE HISTORY:** This property has been zoned TF-3 since the adoption of the Unified Zoning Code (“UZC”) in 1996 and is in the Indiana Subdivision Vincennes Addition recorded on May 5, 1887.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“B” Multi-family Residential	Cemetery
EAST:	“TF-3” Two-family Residential	Single-family Residential
SOUTH:	“B” Multi-family Residential	Cemetery
WEST:	“TF-3” Two-family Residential	Single-family Residential

**PUBLIC SERVICES:** South Rutan Avenue, a paved two-lane residential road with a 50 to 60-foot right-of-way, is located to the west of the application area. Also to the west of the application area is East Orme Street, a paved two-lane residential road with a 60-foot right-of-way. Traffic counts are not available for either of the residential streets and no traffic projections are available for these sections of Rutan and Orme. City water and sewer are available at the application area.

**CONFORMANCE TO PLANS/POLICIES:** The recently updated and adopted “Wichita Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as “Urban Residential.” This application area is located in a little notch of urban residential that is bordered on the north and east by “Major Institutional,” which reflects the location of the existing cemetery. With the approval of this application, the area would be squared off with the B zoning and would the change would also reflect a change in the Land Use guide. The Unified Zoning Code defines the “B” zoning district as generally compatible with the “High Density Residential” designation of the Comprehensive Plan; however, the proposed use could be considered consistent with the “Major Institutional” designation of the Plan. The application area is also consistent with the “Major Institutional Locational Guidelines” of the *Wichita-Sedgwick County Comprehensive Plan*.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is predominately TF-3 zoning developed with single-family residences, and B zoning for the cemetery located north and east of the subject site. Landscape requirements, and existing open space should mitigate any negative impacts from the application area onto the surrounding residential neighbors.
2. The suitability of the subject property for the uses to which it has been restricted: The recently updated and adopted "Wichita Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as "Urban Residential." This application area is located in a little notch of urban residential that is bordered on the north and east by "Major Institutional," which reflects the location of the existing cemetery. With the approval of this application, the area would be squared off with the B zoning and would the change would also reflect a change in the Land Use guide. The Unified Zoning Code defines the "B" zoning district as generally compatible with the "High Density Residential" designation of the Comprehensive Plan; however, the proposed use could be considered consistent with the "Major Institutional" designation of the Plan. The application area is also consistent with the "Major Institutional Locational Guidelines" of the *Wichita-Sedgwick County Comprehensive Plan*.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "B" zoning on this property, and the proposed use of the land would not have a detrimental effect on the surrounding property. The existing cemetery has been in operation for many years and fits well as a buffer between a residential area and Kellogg (US-54). The proposed development would conform to all buffer and landscaping regulations in regards to the zoning and the use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is in conformance with the *Comprehensive Plan* "Wichita Land Use Guide," and it is in conformance with the locational guidelines of the plan.
5. Impact of the proposed development on community facilities: A zone change at the application area to B for a cemetery use would have minimal impacts in regards to city services and traffic. This proposal would generate less traffic than conventional development under the current "TF-3" zoning.

**DERRICK SLOCUM**, Planning staff presented the staff report.

**MOTION:** To approve subject to staff recommendation.

**ANDERSON** moved, **SHERMAN** seconded the motion, and it carried (11-0).

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9. **Case No.: PUD2007-3** – City of Wichita (owner); Loveland Properties, LLC c/o Michael Loveland (developer); Poe & Associates c/o Tim Austin (agent) Request Create PUD #26 the Parkstone PUD for mixed-use residential and commercial development on property described as;

Lots 1 through 4, 7 through 12 and the East Half of Lot 13 and 20, I R & R Subdivision of Block 1, in College Hill Addition to Wichita, Kansas; along with the West 100 feet of the North 140 feet, College Park, College Hill Addition to Wichita; and along with Lots 2, 4, 6, 8, 10 and 12, Roembach's Addition to Wichita, Kansas; and along the West 50 feet of the South Half of the

East Half of Lot 1, Block 2, College Hill Addition to Wichita; and along with the North Half of the West Half of Lot 1, Block 2, College Hill Addition to Wichita. Generally located North of Douglas, east of Hillside, south of 1st Street North, and east and west of Rutan.

**BACKGROUND:** The applicant proposes to create PUD #26 Parkstone Planned Unit Development consisting of four parcels for a mixed use urban village development including commercial, office and a range of housing types of brownstones (three-story row housing), a high rise apartment tower and apartment flats on second stories above commercial uses at the street level. The property is located north of Douglas Avenue, east of Hillside Avenue and south of 1<sup>st</sup> Street North, and includes property on all four corners of the intersection of Rutan Avenue and Victor Place. The property would be zoned “PUD” Planned Unit Development to replace the current zoning of “GC” General Commercial, “GO” General Office, “B” Multi-family Residential, and “TF-3” Two-family Residential. Use and site development would be defined and limited to the elements contained within the PUD document.

The site lies within the City of Wichita Central & Hillside Redevelopment District approved by Wichita City Council on December 19, 2006. The Douglas & Hillside Redevelopment District (TIF) and the College Hill Urban Village Project Plan were approved by Wichita City Council February 13, 2007.

Proposed uses include all residential and commercial uses permitted by right in the NR zoning district except group residence, broadcast recording studio and pay day loans or similar speedy cash types of businesses, and with the additional NR residential conditional use of neighborhood swimming pool and the additional NR public and civic use of minor utility. The PUD did not request any other public and civic uses or any industrial, manufacturing and extractive uses or any agricultural uses. Restaurants would be allowed up to 6,000 square feet in size, which varies from the NR special development standards for restaurants but still excludes large-scale restaurant operations. Victor Place east of Rutan would become a pedestrian plaza pocket park. The site plan accompanying the TIF review had a roundabout at the intersection of Rutan and Victor Place that may be eliminated due to fire protection turning radius requirements.

Parcel 1 (52,348 square feet-1.2 acre) is located east of Rutan between Victor Place and 1<sup>st</sup> Street North (the Northeast Brownstone Complex on the College Hill TIF project plan). Requested density is 29 dwelling units per acre and requested maximum building height is 60 feet, however, these levels exceed the proposed uses documented on a proposed site plan and the College Hill Urban Village Project Plan that is the basis for the TIF district. The TIF plan was based on a total of 16 brownstone-type row houses with two-car garage within the units plus a small amount (2,100 square feet) of retail space on the corner. 18 dwelling units per acre (MF-18 density) and a height of 45 feet would be ample to allow the development as proposed by the TIF approval.

Parcel 2 (135,649 square feet-3.1 acres) is the largest tract with the most intensive residential component. It was described as the Condo Tower and Brownstone Complex and the West Brownstone Complex on the TIF project plan. Located west of Rutan between 1<sup>st</sup> Street North and Victor Place, the parcel would have up to a 14-story high-rise (condominium) apartment building with approximately 84 to 87 dwelling units. A two-level 210-space parking garage would be located under the high-rise tower and extending toward Rutan and the west property line. Up to 36 brownstone row-house type dwellings would surround the high rise. On a site plan, the brownstones have a 10-foot setback from the street. Each unit includes a two-car garage within the unit and a guest parking lot is located east of the main entrance to the high-rise tower. On-street parallel parking spaces provide additional parking for guests or for customers to the office and retail uses. Requested density of the parcel of 50 dwelling units per acre, which is a modest increase from the density of 42 dwelling units per acre of the TIF project plan. Requested height is 300 feet to accommodate a 14-story high-rise.

For Parcels 1 and 2, it is recommended that maximum building height be reduced to 45 feet within 70 feet of 1<sup>st</sup> Street North and a building setback of 10 feet be required to maintain a unified height and setback along 1<sup>st</sup> Street and to scale back the intensity of street presence along this street that serves as a main

gateway to the lower intensity residential character of the College Hill neighborhood. Also, commercial uses are to be prohibited in structures facing (and located within 70 feet of) 1<sup>st</sup> Street, again to keep the character of 1<sup>st</sup> Street intact but allow the remaining development fronting onto Victor and Rutan to utilize mixed commercial and residential use.

Parcel 3 (14,009 square feet-0.32 acre) is proposed as a surface 36-space parking lot to serve parking needs primarily of the office and retail components of the development.

Parcel 4 (56,885 square feet-1.3 acre) is proposed as a retail/residential condominium complex (described as the South Project Retail/Residential Complex on the TIF project plan). A two-story mixed-use building with 9,600 square feet of retail on the street level and five loft apartments on the second floor is to be located on the corner of Douglas and Rutan. Five three-story brownstone-type row houses are shown along Rutan and retail space on the street level with apartments above are located at the corner of Rutan and Victor. The TIF project plan indicates the brownstones could be replaced with retail uses depending on market demand. A four-story mid-rise apartment building of 24 flats with a 31-car parking lot is shown south of Victor Place and west of Rutan. The PUD requests a maximum building height of 200 feet and density of 50 dwelling units per acre. Current configuration is at a height of about 60 feet and density of 28 dwelling units per acre. The applicant's agent indicated the reason for the wide variation in requested and proposed density and height would be if a second high-rise tower were constructed on the property. This could be a substantial change from the current PUD plan/site plan and the TIF project plan, could affect the parking ratios, and should be subject to a review level associated with an amendment to the PUD. The recommended density and heights reflect the mid-rise and retail/residential components as shown in the TIF project plan and a proposed site plan.

Architectural elements are designed to create an urban village character to the development. Signage is to be per the Wichita Sign Code for the NR district. Consistency in parking lot and lighting elements are to be incorporated. Landscaping would be per the Wichita Landscape Ordinance and done with a consistent plant palette. A proposed site plan shows a row of on-street parking interspersed with trees spaced 60 to 75 feet apart within Victor Place, Rutan and 1<sup>st</sup> Street. Pedestrian connectivity is required between buildings in the PUD.

Parking appears to be ample, particularly since in an urban village setting, the parking demand would be anticipated to be lower because more patrons would be anticipated to walk to the site than to suburban commercial developments. The developer is providing two public parking lots (Parcel 3 and a lot behind the buildings on Parcel 4) primarily for the retail component. The total amount of parking in these two lots is about 70 spaces, which would almost meet the standard Unified Zoning Code ("UZC") commercial parking requirement if it were developed with up to 20,000 square feet of retail/commercial square footage (although with restaurants, the true parking need would be higher). It is suggested that the parking provision for general retail/office be 1/500 square feet and for restaurants be 1/8 patrons, which is one-half the standard parking rate of the UZC. The PUD requests a parking requirement of 1.25 spaces for multi-family use. This is less parking than shown on a site plan with the high rise having 211 stalls for less than 90 units and the mid-rise with 30 spaces for 19 units. Additional parking is provided by parallel parking stalls on street. And in the TIF project description, the brownstones are to incorporate two-car garages within the units. In order to build some flexibility into the parking component, the option is suggested that the site be developed according to the parking as shown on the site plan or as specified in the general provisions of the PUD.

The surrounding area is College Hill, a traditional neighborhood on a grid pattern with mostly single-family dwellings mixed with duplexes; College Hill Elementary School is the property immediately to the north of Parcel 1 and Plymouth Congregational Church is one block east. The Hillcrest is a premiere apartment tower owned by its residents as a coop. It is ten stories in height and located one block south of this project. The Hillcrest (1927) long has served as the landmark and focal point for the Uptown retail area and edge of College Hill neighborhood. Douglas in this vicinity was known as the "Uptown" area historically and still maintains a strong mix of retail/commercial uses including the Uptown Theater

(dinner theater), several furniture stores, offices, dance studio, and restaurants. The Dockum Drug Store building (1927) is significant due to the presence of the Carthalite detailing on the façade. Zoning surrounding the tract includes “SF-5” Single-family Residential, “TF-3” Two-family Residential, “MF-29” Multi-family Residential, “B” Multi-family Residential, “GO” General Office, “LC” Limited Commercial and “GC” General Commercial.

**CASE HISTORY:** The property is platted as I, R & R Subdivision of Block 1 in College Hill Addition (April 4, 1887), Roembach’s Addition (June 4, 1910), and College Hill Addition (September 30, 1884). A replat for the site is being processed (SUB2007-64).

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, TF-3, SF-5	Elementary school, single-family, duplex, apartments
EAST:	TF-3, MF-29, GO	Single-family, duplex, apartments, office
SOUTH:	LC, GC	Hillcrest high-rise, offices, theater, restaurants
WEST:	GC, LC, B	Restaurant, retail, offices, dance studio, personal care service

**PUBLIC SERVICES:** Douglas is a minor arterial street and Hillside is a principal arterial street. Traffic counts in 2006 were 15,000 vehicles per day on Douglas and 18,000 on Hillside. In 2007 improvements were completed widening Hillside to a five-lane street and improving Douglas with a left-turn lane at the intersection of Hillside. These improvements were difficult to design due to the presence of zero-lot setback of commercial buildings on the northeast and southeast sides of the Douglas and Hillside intersections. 1<sup>st</sup> Street North is a one-way collector street. Access openings onto 1<sup>st</sup> Street would be limited to two openings per the subdivision plat. Other public services are available. The scale of this project will necessitate relocation and upgrading of public improvements and infrastructure. The TIF is being used for this purpose. Discussions are ongoing as part of the subdivision platting process regarding the handling of storm water on the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identify the site as “local commercial” for Parcels 2-4 and “urban residential” for Parcel 1. The proposed uses of the PUD would be in conformance with this designation, particularly with the restriction of uses to those generally falling within the NR Neighborhood Retail district.

**RECOMMENDATION:** The PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD meets these criteria. The urban village concept incorporates a mix of commercial and residential uses, including a variety of housing types, allows a higher level of concentration, has higher standards for architectural design, incorporates elements of the streetscape into the development, reduces the setbacks, and encourages a walkable pedestrian environment.

Based on these comments and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. Revise Parcel 1 to a maximum residential density of 21.8 dwelling units per acre and height of 45 feet.
2. Revise the maximum height on Parcel 2 to 45 feet within 70 feet of 1<sup>st</sup> Street North.
3. Add a limitation to Parcel 2 that the high-rise cannot exceed 14 stories (not including the parking garage so long as the roof of the garage is at ground level on east side boundary).
4. Add a building setback of 10 feet along 1<sup>st</sup> Street North and 15 feet along the eastern property line of Parcel 1.
5. Limit the maximum residential density of Parcel 4 to 29 dwelling units per acre and a height of 60 feet and a maximum of four stories.
6. Wireless communication shall be subject to standards for the NR district.
7. Specify the use of Parcel 3 as a parking lot.
8. Revise parking requirements to 1/500 square feet for retail, office, personal care service and personal improvement service, and replace "CBD" with "NR" in General Provision #6.
9. In General Provision #19, replace "CBD" with "NR".
10. Add the provision, that unless otherwise indicated by the PUD document, the uses, property development standards, and special development standards shall be per the Unified Zoning Code for the NR Neighborhood Retail zoning district, and the site development standards shall be per the Unified Zoning Code requirements as applicable to the NR Neighborhood Retail district.
11. Include maximum commercial gross floor area of 3,000 square feet in Parcel 1 and 30,000 square feet for the entire project.
12. Provide a six to eight feet in height solid screening wall on east edge of Parcel 1 beginning at a point 50 feet south of the 1<sup>st</sup> Street North right-of-way.
13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
14. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
15. Prior to publishing the resolution establishing the PUD zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD #26) includes special conditions for development on this property.
16. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is College Hill, a traditional neighborhood on a grid pattern with mostly single-family dwellings mixed with duplexes; College Hill Elementary School is the property immediately to the north of Parcel 1 and Plymouth Congregational Church is one block east. The Hillcrest is a premiere apartment tower owned by its residents as a coop. It is ten stories in height and located one block south of this project. The Hillcrest (1927) long has served as the landmark and focal point for the Uptown retail area and edge of College Hill neighborhood. Douglas in this vicinity was known as the "Uptown" area historically and still maintains a strong mix of retail/commercial uses including the Uptown Theater (dinner theater), several furniture stores, offices, dance studio, and restaurants. The Dockum Drug Store building (1927) is significant due to the presence of the Carthalite detailing on the façade. Zoning surrounding the tract includes "SF-5" Single-family Residential, "TF-3" Two-family Residential, "MF-29" Multi-family Residential, "B" Multi-family Residential, "GO" General Office, "LC" Limited Commercial and "GC" General Commercial.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, but it would lack the flexibility in site development regulations to achieve the urban village concept. In particular, retail activities would be restricted to Douglas rather than Rutan and setbacks and height limitations would prohibit the narrower front yard setbacks for the brownstones and high-rise development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The primary changes will be the increase in density and reduction in setbacks near the residential area to the north and east. Addition of the 10-foot uniform setback will mitigate the effect by keeping a uniform alignment and the presence of the brownstones along the street will help screen the scale of the high-rise from the residential neighborhood. The addition of a screening wall will afford better separation with the single-family residence to the east as well as better privacy for the neighborhood swimming pool along this property line.
4. Length of time the property has remained vacant as zoned: The majority of the site has been vacant nearly 15 years since the State of Kansas moved its regional SRS offices. This abandoned high-rise office building, located on the northwest corner of Douglas and Rutan, was a hazard and blight to the neighborhood. The parking lots are overgrown. Only one office building on Victor Place was adequately maintained (it is being retained during the initial phases of development as the office for the project).
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide," 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identify the site as "local commercial" for Parcels 2-4 and "urban residential" for Parcel 1. The proposed uses of the PUD would be in conformance with this designation, particularly with the restriction of uses to those generally falling within the NR Neighborhood Retail district.
6. Impact of the proposed development on community facilities: The impact should not be greater than the capacity of the streets and other public facilities as being redeveloped by the TIF funded public improvements, coupled with the recent improvements to Hillside and Douglas in 2007.

**DONNA GOLTRY**, Planning staff presented the staff report.

She said the original plans had been revised and that some building setbacks had been added. She commented that the Tax Increment Financing (TIF) spells out the amount of residential and retail space needed to make the project "turn" and meet financial projections. She explained that the density of retail and residential is built into the PUD to make the financial part of the TIF. She commented that there would be a 10-foot setback for the proposed brownstones and that parking ratios were a little bit lower than normal, reflecting the urban village concept.

**GISICK** Out @2:45 p.m.

**GOLTRY** briefly reviewed changes to the original plan, including but not limited to the following: Item #3 that the fifteenth floor of the 15 story structure would be non-occupied; Item #9 has added building setbacks; and Item #11 that the space has been changed to 4,000 square feet instead of the original 3,000 square feet.

Responding to a question from **HILLMAN** concerning a traffic light and crosswalk at Rutan and Douglas, **GOLTRY** commented that the Traffic Engineer would make that determination.

Responding to a question from **BISHOP** concerning only a portion of the area being zoned residential, **GOLTRY** explained that the PUD establishes what uses were permitted. She reviewed the zoning map, which basically established "NH" Neighborhood Residential zoning. She said speedy cash operations

were prohibited; a neighborhood swimming pool was included; and restaurant space had been expanded to a maximum of size 6,000 square feet rather than the usual 2,000 square feet, which would be typical for this type of zoning. She also commented on the architectural standards, signage, streetscape and landscaping, and pedestrian connections.

Responding to several questions from **HENTZEN, GOLTRY** clarified that Victor Place would be blocked off and not a through street. In addition, she defined "brownstone" as two-three story structures with a common front porch that she likened to the Back-Bay in Boston, MA. She added brownstones usually occur in mixed development use areas, with retail and/or office on the ground floor and residential use above. She briefly reviewed parking in the PUD, which consisted of extra parking for the pool, retail, and mid-rise building, on-street parking and two-car garages in the back of some of the residential/condominium units.

**TIM AUSTIN, POE & ASSOCIATES, AGENT FOR THE APPLICANT** stated that they were in agreement with staff comments and the minor "tweaks" that had been made to the original plan. He mentioned Item #3 concerning the 15-storey structure; Item #4 concerning the building setbacks on First, Victor and Rutan Streets, Item #10 general provisions and Item #19 concerning building setbacks. He said this would be a dense urban environment much like the central business district, and Item #11 that was increasing the maximum gross floor area on parcel one to 4,000 square feet.

Responding to a question from **MILLER STEVENS** concerning the roundabout on Victor Place, **AUSTIN** responded that it had been done away with.

**KENNETH W. ARNOLD, 7033 EAST ROCKWOOD**, said he was present to represent the Plymouth Congregational Church and that they were very supportive of the proposed development because they thought it would be great for the neighborhood. He requested that the MAPC support the project.

**TIM PHARES, 142 S RUTAN** said he was in favor of the project. He mentioned the traffic flow south of Douglas and that there were no stop signs on Rutan between Lewis and Douglas. He said if Rutan is a residential street as opposed to an arterial, then the Traffic Commission needs to work on diverting north/south traffic with stop signs and possibly installing a left turn lane on east bound Douglas into the project. He said that would help the neighborhood.

It was noted for the record that there was no rebuttal from the agent.

**GOLTRY** clarified item #5 and that after a meeting with the College Hill Neighborhood Association, it was decided that the building would be four stories, and a total of 60 foot in height.

**MOTION:** To approve subject to staff recommendation.

**HENTZEN** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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- 10. Case No.: DR2005-35 (DER2007-09)** - Request Resolution amending the Unified Zoning Code to add the Proposed Corridor Preservation Plan Overlay District (CP-O) for the proposed Northwest Bypass in Sedgwick County on property described as;

General Location Within unincorporated Sedgwick County and a portion of the City of Wichita, the general location of the proposed CP-O connects K-96 to US-54 west of the City of Wichita.

**BACKGROUND:** The Kansas Department of Transportation (KDOT) has been planning this extension of the K-254 bypass around Wichita to U.S. 54 for many years. KDOT has advanced the design of the project to the point that it has started the process of acquiring right-of-way. Since limited funding is



available at this time for right-of-way acquisition, KDOT is asking that local jurisdictions assist in preserving the corridor so that property development does not unnecessarily hinder future acquisition efforts when additional funds are available.

The proposed Corridor Preservation Plan Overlay (CP-O) District is intended to assist KDOT in the land assembly process. Its key provision is that it would require any new use of property within the District requiring a building permit to be reviewed for consistency with the CP-O standards. These standards are intended to encourage property owners to build on their property in ways that would not interfere with the eventual construction of the bypass. Where it is not possible to do so without unduly interfering with property rights, the review process will allow the local jurisdiction to alert KDOT of the need to consider acquiring all or portions of the property.

The MAPC first heard this item on December 8, 2005, and voted 10-0 to approve the item subject to staff recommendations. The item was scheduled for the February 7, 2006, Wichita City Council hearing agenda, and the February 8, 2006, Board of County Commissioners agenda. Both governing bodies voted to defer the item at their respective meetings in order to allow uncertainties about the project to be cleared up.

Because so much time has elapsed since this item was last heard and a revised legal description for the CP-O has been prepared that references KDOT design drawings, both governing bodies have sent this item back to the MAPC for a new public hearing.

**RECOMMENDATION:** Based upon the information available prior to the public hearing, planning staff recommends that the Resolution amending the Unified Zoning Code to add the Proposed Corridor Preservation Plan Overlay (CP-O) District be found in conformance with the Wichita/Sedgwick County Comprehensive Plan, and be APPROVED.

**DALE MILLER**, Planning staff presented the staff report.

He said this would be a change to the Unified Zoning Code that established a conditional use review process for areas along the proposed by-pass route. He said uses already occurring in the area would be "grand fathered" in. He said all cases reviewed by the MAPC would go on to the appropriate governing body (either City of County) for final approval or denial of the required 150-foot building set back

#### **TAPE 2, SIDE 1**

**HENTZEN** asked staff if they could delay this item, due to **MCKAY** and **MITCHELL'S** absences at today's meeting and the experience they had in this area. **MILLER** commented that he believed the County Commission wanted an answer on the item today.

Responding to **HENTZEN'S** inquiry, **PARNACOTT** said he was not aware of any particular urgency; however, he noted that when this issue came before the Commission in 2006, the vote was 10-0 to approve. He said the proposal hasn't changed since that time.

There was brief discussion concerning the map. **MILLER** mentioned that there was a caveat that if the route should change, the applicant does not have to return for another hearing.

**CHAIRMAN DOWNING** opened the meeting for public comment. For the record, no one spoke.

**MOTION:** To approve subject to staff recommendation.

**MARNELL** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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The Metropolitan Area Planning Department informally adjourned at 3:10 p.m.

State of Kansas                )  
Sedgwick County            ) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)